



FH  
[REDACTED]

**STATE OF WISCONSIN  
Division of Hearings and Appeals**

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

BCS/166986

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**PRELIMINARY RECITALS**

Pursuant to a petition filed June 29, 2015, under Wis. Stat. § 49.45(5)(a), to review a decision by the Manitowoc County Department of Human Services in regard to Medical Assistance, a hearing was held on July 21, 2015, at Manitowoc, Wisconsin.

The issue for determination is whether the agency correctly terminated the petitioner's BadgerCare Plus (BCP) benefits June 1, 2015.

There appeared at that time and place the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
[REDACTED]

Respondent:

Department of Health Services  
1 West Wilson Street, Room 651  
Madison, Wisconsin 53703

By: Sheur Yang

Manitowoc County Department of Human Services  
3733 Dewey Street  
Manitowoc, WI 54221-1177

**ADMINISTRATIVE LAW JUDGE:**

Corinne Balter

Division of Hearings and Appeals

**FINDINGS OF FACT**

1. The petitioner (CARES # [REDACTED]) is a resident of Manitowoc County.
2. In April 2015 the petitioner completed a renewal for his BCP benefits. During this renewal process the petitioner submitted an Employer Verification of Earnings form. This form stated that the petitioner worked 35 hours per week making \$10.00 per hour.

3. On June 3, 2015 the agency sent the petitioner a notice stating that he was no longer eligible for BCP benefits effective June 1, 2015 because his income was too high. The notice stated that he could apply for private insurance through the marketplace.
4. In July the petitioner submitted a second verification form stating that he worked 25 hours per week making \$10.00 per hour.
5. On July 16, 2015 the agency sent the petitioner a notice stating that he was over the income for BCP benefits. The notice stated that he could apply for private insurance through the marketplace.
6. The petitioner's monthly gross income is \$1,000.
7. The petitioner did not incur any medical bills in June. Thus far, he has not incurred medical bills in July.
8. The petitioner did not apply for private health insurance through the marketplace.
9. On June 24, 2015 the petitioner submitted a Request for Fair hearing. He attached a 2014 tax return to his request. His total gross income in 2014 was \$5,573.

### **DISCUSSION**

BadgerCare Plus is a Wisconsin variant of the MA program, for non-elderly, non-disabled Wisconsin residents. The program's nonfinancial eligibility standards were broadened effective April 1, 2014, to include adults who do not have minor children in their home. Wis. Stat. § 49.45(23); 2013 Wisconsin Act 116, § 29, for effective date; *BadgerCare Plus Eligibility Handbook (BCPEH)*, § 2.1, at <http://www.emhandbooks.wisconsin.gov/bcplus/bcplus.htm> (viewed in July 2015). The petitioner meets the nonfinancial eligibility tests for the program.

Petitioner must also pass an income test. An eligible applicant cannot have adjusted gross income exceeding 100% of the federal poverty level (FPL). Wis. Stat. § 49.45(23)(a); *BCPEH*, § 16.1. The 100% FPL amount is \$980.83 monthly for a household of one. *Id.*, § 50.1.

In this case there is no dispute that the petitioner's monthly gross income when he completed his renewal and the two months following this renewal was over the program limit. During the hearing the petitioner testified that his monthly income would decrease in August when his hours decreased. The petitioner's plan is to reapply for BCP benefits in August when his work hours and monthly income decrease.

I note that based on the petitioner's tax return and testimony, he may be a candidate for the gap filling coverage. Had the petitioner applied for private insurance through the Marketplace, the Marketplace would most likely have denied his application because they would have determined that he was eligible for state Medicaid. Thus, the petitioner would have been ineligible for both BCP (state Medicaid) and Marketplace Insurance. This group is eligible for BCP through the gap filling policy. In this case the petitioner never applied for private insurance through the marketplace. Without the Marketplace denial, he remains ineligible for BCP benefits.

### **CONCLUSIONS OF LAW**

The agency correctly terminated the petitioner's BCP benefits June 1, 2015.

**THEREFORE, it is**

**ORDERED**

That the petition is dismissed.

## REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

## APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Milwaukee,  
Wisconsin, this 22nd day of July, 2015

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\sCorinne Balter  
Administrative Law Judge  
Division of Hearings and Appeals



**State of Wisconsin\DIVISION OF HEARINGS AND APPEALS**

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The preceding decision was sent to the following parties on July 22, 2015.

Manitowoc County Department of Human Services  
Division of Health Care Access and Accountability